United Nations

Report of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996

Sixth session (28 January-1 February 2002)

General Assembly
Official Records
Fifty-seventh Session
Supplement No. 37 (A/57/37)

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Note

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[11 February 2002]

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Chapter I
Introduction

1. The sixth session of the Ad Hoc Committee established by General Assembly resolution 51/210 of 17 December 1996 was convened in accordance with paragraphs 16 and 17 of Assembly resolution 56/88 of 12 December 2001. The Committee met at Headquarters from 28 January to 1 February 2002.

2. In accordance with paragraph 9 of General Assembly resolution 51/210, the Ad Hoc Committee was open to all States Members of the United Nations or members of specialized agencies or of the International Atomic Energy Agency (IAEA).

3. On behalf of the Secretary-General, the Legal Counsel of the United Nations, Hans Corell, opened the sixth session of the Ad Hoc Committee.

4. At its 22nd meeting, on 28 January, the Committee re-elected Mr. Rohan Perera (Sri Lanka) as its Chairman. The Chairman informed the Committee that, with the exception of Mr. Carlos Fernando Díaz Paniagua (Costa Rica), who had acted as Vice-Chairman at the previous session, the two Vice-Chairpersons of the Committee, Ms. Cate Steains (Australia) and Mr. Mohammed Gomaa (Egypt), as well as the Rapporteur, Mr. Ivo Janda (Czech Republic), were no longer available to act as members of the Bureau. The Committee paid tribute to Ms. Steains, Mr. Gomaa and Mr. Janda for their valuable contributions to its work. The Committee then elected Mr. Albert Hoffmann (South Africa) and Mr. Richard Rowe (Australia) as Vice-Chairmen and Mr. Volodymyr Krokhmal (Ukraine) as Rapporteur. The Bureau was thus constituted as follows:

Chairman:

Mr. Rohan Perera (Sri Lanka)

Vice-Chairmen:

Mr. Carlos Fernando Díaz Paniagua (Costa Rica)
Mr. Albert Hoffmann (South Africa)
Mr. Richard Rowe (Australia)

Rapporteur:

Mr. Volodymyr Krokhmal (Ukraine)

5. The Director of the Codification Division of the Office of Legal Affairs, Mr. Václav Mikulka, acted as Secretary of the Ad Hoc Committee, assisted by Ms. Anne Fosty (Deputy Secretary). The Codification Division of the Office of Legal Affairs provided the substantive services for the Ad Hoc Committee.

6. At the same meeting, the Ad Hoc Committee adopted the following agenda (A/AC.252/L.10):

1. Opening of the session.
2. Election of officers.
3. Adoption of the agenda.
4. Organization of work.
5. Consideration of the relevant questions referred to in paragraphs 16 and 17 of General Assembly resolution 56/88 of 12 December 2001, in accordance with the mandate of the Ad Hoc Committee as set out in that resolution.
6. Adoption of the report.

7. The Ad Hoc Committee had before it the report of its fifth session[1] and the report of the Working Group of the Sixth Committee, established at the fifty-sixth session of the General Assembly (A/C.6/56/L.9), containing, inter alia: a revised text of articles 3 to 17 bis and 20 to 27 of the draft comprehensive convention on international terrorism, prepared by the Friends of the Chairman; the informal texts of articles 2 and 2 bis of the same draft convention, prepared by the Coordinator; and written amendments and proposals submitted by delegations in connection with the elaboration of the draft comprehensive convention. The Committee also had before it the revised text of a draft international convention for the suppression of acts of nuclear terrorism, proposed by the Friends of the Chairman (A/C.6/53/L.4, annex I).

Chapter II
Proceedings

8. The Ad Hoc Committee held five meetings: the 22nd and the 23rd, on 28 January; the 24th, on 30 January; the 25th, on 31 January; and the 26th, on 1 February 2002.

9. At the 23rd meeting, the Ad Hoc Committee adopted its work programme and decided to proceed with discussions in informal consultations. The informal consultations were coordinated by the Vice-Chairman, Mr. Richard Rowe.

10. The informal consultations were held in two stages. The first commenced with discussion on article 18 of the draft comprehensive convention and was followed by consideration of the preamble and article 1 of the draft convention.

11. The second stage, the informal consultations, focused on the outstanding issues pertaining to the draft international convention for the suppression of acts of nuclear terrorism. The representative of IAEA briefed delegations on the measures under consideration by the Agency aimed at combating acts of terrorism involving nuclear materials and other radioactive materials.

12. At the 24th meeting, the delegation of Egypt informed the Ad Hoc Committee that bilateral consultations were being conducted on the question of convening a high-level conference, under the auspices of the United Nations, to formulate a joint organized response of the international community to terrorism in all its forms and manifestations, the results of which would be reported to the Chairman of the Committee in due course.

13. At the 25th meeting, the Coordinator presented an oral report on the results of the informal consultations on both the draft comprehensive convention on international terrorism and the draft international convention for the suppression of acts of nuclear terrorism. The Coordinator's report, which is for reference purposes only and not as a record of the discussions, is contained in annex VI to the present report.

14. In the light of the results of the informal consultations, the Bureau prepared a discussion paper on the preamble and article 1 of the draft comprehensive convention on international terrorism which, along with other proposals outlined in the Coordinator's report contained in annex VI, would provide a basis for discussion in the Sixth Committee at the fifty-seventh session of the General Assembly. The discussion paper is contained in annex I to the present report.

15. Annex II to the present report reproduces the informal texts of articles 2 and 2 bis of the draft comprehensive convention, prepared by the Coordinator, as contained in document A/C.6/56/L.9, annex I.B.

16. Annex III reproduces the texts of articles 3 to 17 bis and 20 to 27 of the draft comprehensive convention, prepared by the Friends of the Chairman, as contained in document A/C.6/56/L.9, annex I.A.

17. Annex IV contains two texts relating to article 18 of the draft comprehensive convention: one circulated by the Coordinator for discussion and the other proposed by Member States of the Organization of the Islamic Conference.

18. Annex V.A contains a list of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft comprehensive convention on international terrorism. Annex V.B contains written amendments and proposals submitted to the Working Group in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism.

19. At its 26th meeting, the Ad Hoc Committee adopted the report of its sixth session.

Chapter III
Recommendation

20. At the 26th meeting, the Ad Hoc Committee, bearing in mind General Assembly resolution 56/88, decided to recommend that the Sixth Committee, at the fifty-seventh session of the General Assembly, consider establishing a working group, preferably to be convened from 14 to 18 October 2002, to continue, as a matter of urgency, the elaboration of a draft comprehensive convention on international terrorism, with appropriate time allocated to the continued consideration of outstanding issues relating to the elaboration of a draft international convention for the suppression of acts of nuclear terrorism, and keeping on its agenda the question of convening a high-level conference under the auspices of the United Nations to formulate a joint organized response of the international community to terrorism in all its forms and manifestations.

Notes

[1] *Official Records of the General Assembly, Fifty-sixth Session, Supplement No. 37* (A/56/37).

Annex I

Discussion paper on the preamble and article 1 of the draft comprehensive convention, prepared by the Bureau as a basis for discussion in the Sixth Committee at the fifty-seventh session of the General Assembly[1]

The States Parties to this Convention,

Recalling the existing international treaties relating to various aspects of the problem of international terrorism, in particular the Convention on Offences and Certain Acts Committed on Board Aircraft, signed at Tokyo on 14 September 1963; the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at The Hague on 16 December 1970; the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971; the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, adopted by the General Assembly of the United Nations on 14 December 1973; the International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979; the Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980; the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988; the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988; the Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf, done at Rome on 10 March 1988; the Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991; the International Convention for the Suppression of Terrorist Bombings, adopted by the General Assembly of the United Nations on 15 December 1997; the International Convention for the Suppression of the Financing of Terrorism, adopted by the General Assembly of the United Nations on 9 December 1999,

Recalling also General Assembly resolution 49/60 of 9 December 1994 and the Declaration on Measures to Eliminate International Terrorism annexed thereto,

Recalling further General Assembly resolution 51/210 of 17 December 1996 and the Declaration to supplement the 1994 Declaration on Measures to Eliminate International Terrorism annexed thereto,

Deeply concerned about the worldwide escalation of acts of terrorism in all its forms and manifestations, which endanger or take innocent lives, jeopardize fundamental freedoms and seriously impair the dignity of human beings,

Reaffirming their unequivocal condemnation of all acts, methods and practices of terrorism as criminal and unjustifiable, wherever and by whomever committed,

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[1] These texts represent the stage of consideration reached at the current session of the Ad Hoc Committee. It is understood that further consideration will be given to these texts, together with all written and oral proposals, in future discussions, including on outstanding issues.

including those which jeopardize friendly relations among States and peoples and threaten the territorial integrity and security of States,

Recognizing that acts, methods and practices of terrorism constitute a grave violation of the purposes and principles of the United Nations, which may pose a threat to international peace and security, jeopardize friendly relations among States, hinder international cooperation and aim at the undermining of human rights, fundamental freedoms and the democratic basis of society,

Recognizing also that the financing, planning and inciting of terrorist acts are also contrary to the purposes and principles of the United Nations, and that it is the duty of the States Parties to bring to justice those who have participated in such terrorist acts,

Convinced that the suppression of acts of international terrorism, including those which are committed or supported by States, directly or indirectly, is an essential element in the maintenance of international peace and security and the sovereignty and territorial integrity of States,

Noting that the Convention relating to the Status of Refugees signed at Geneva on 28 July 1951 and the Protocol relating to the Status of Refugees done at New York on 31 January 1967 do not provide a basis for the protection of perpetrators of terrorist acts, and stressing the importance of the full compliance by the parties to those instruments with the obligations embodied therein, including, in particular, the principle of non-refoulement,

Bearing in mind the necessity of respecting human rights and international humanitarian law in the fight against terrorism,

Realizing the need for a comprehensive convention on international terrorism,

Have resolved to take effective measures to prevent acts of terrorism and to ensure that perpetrators of terrorist acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to that end have agreed as follows:

Article 1[2]

For the purposes of this Convention:

1. "State or government facility" includes any permanent or temporary facility or conveyance that is used or occupied by representatives of a State, members of government, the legislature or the judiciary or by officials or employees of a State or any other public authority or entity or by employees or officials of an intergovernmental organization in connection with their official duties.

2. "Military forces of a State" means the armed forces of a State which are organized, trained and equipped under its internal law for the primary purpose of national defence or security, and persons acting in support of those armed forces who are under their formal command, control and responsibility.

[2] Identical to the revised text of article 1 prepared by India and contained in document A/C.6/55/L.2, annex I.

3. "Infrastructure facility" means any publicly or privately owned facility providing or distributing services for the benefit of the public, such as water, sewerage, energy, fuel, banking, communications, telecommunications and information networks.

4. "Place of public use" means those parts of any building, land, street, waterway or other location that are accessible or open to members of the public, whether continuously, periodically or occasionally, and encompasses any commercial, business, cultural, historical, educational, religious, governmental, entertainment, recreational or similar place that is so accessible or open to the public.

5. "Public transportation system" means all facilities, conveyances and instrumentalities, whether publicly or privately owned, that are used in or for publicly available services for the transportation of persons or cargo.

Annex II

Informal texts of articles 2 and 2 bis of the draft comprehensive convention, prepared by the Coordinator[1]

Article 2

1. Any person commits an offence within the meaning of this Convention if that person, by any means, unlawfully and intentionally, causes:

(a) Death or serious bodily injury to any person; or

(b) Serious damage to public or private property, including a place of public use, a State or government facility, a public transportation system, an infrastructure facility or the environment; or

(c) Damage to property, places, facilities, or systems referred to in paragraph 1 (b) of this article, resulting or likely to result in major economic loss,

when the purpose of the conduct, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or abstain from doing any act.

2. Any person also commits an offence if that person makes a credible and serious threat to commit an offence as set forth in paragraph 1 of this article.

3. Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.

4. Any person also commits an offence if that person:

(a) Participates as an accomplice in an offence as set forth in paragraph 1, 2 or 3 of this article;

(b) Organizes or directs others to commit an offence as set forth in paragraph 1, 2 or 3 of this article; or

(c) Contributes to the commission of one or more offences as set forth in paragraph 1, 2 or 3 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:

(i) Be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

(ii) Be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

[1] Reproduced from document A/C.6/56/L.9, annex I.B. These texts represent the stage of consideration reached at the 2001 session of the Working Group of the Sixth Committee. It is understood that further consideration will be given to these texts in future discussions, including on outstanding issues.

Article 2 bis

Where this Convention and a treaty dealing with a specific category of terrorist offence would be applicable in relation to the same act as between States that are parties to both treaties, the provisions of the latter shall prevail.

Annex III

Texts of articles 3 to 17 bis and 20 to 27 of the draft comprehensive convention, prepared by the Friends of the Chairman[1]

Article 3

This Convention shall not apply where the offence is committed within a single State, the alleged offender and the victims are nationals of that State, the alleged offender is found in the territory of that State and no other State has a basis under article 6, paragraph 1, or article 6, paragraph 2, of this Convention to exercise jurisdiction, except that the provisions of articles 8 and 12 to 16 shall, as appropriate, apply in those cases.

Article 4

Each State Party shall adopt such measures as may be necessary:

(a) To establish as criminal offences under its domestic law the offences set forth in article 2;

(b) To make those offences punishable by appropriate penalties which take into account the grave nature of those offences.

Article 5

Each State Party shall adopt such measures as may be necessary, including, where appropriate, domestic legislation, to ensure that criminal acts within the scope of this Convention are under no circumstances justifiable by considerations of a political, philosophical, ideological, racial, ethnic, religious or other similar nature.

Article 6

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences set forth in article 2 when:

(a) The offence is committed in the territory of that State; or

(b) The offence is committed on board a vessel flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) The offence is committed by a national of that State.

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[1] Reproduced from document A/C.6/56/L.9, annex I.A. This text represents the stage of consideration reached at the 2001 session of the Working Group of the Sixth Committee. It is understood that further consideration will be given to this text in future discussions, including on outstanding issues.

2. A State may also establish its jurisdiction over any such offence when:

(a) The offence is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(b) The offence is committed wholly or partially outside its territory, if the effects of the conduct or its intended effects constitute or result in, within its territory, the commission of an offence set forth in article 2;

(c) The offence is committed against a national of that State; or

(d) The offence is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises of that State; or

(e) The offence is committed in an attempt to compel that State to do or to abstain from doing any act; or

(f) The offence is committed on board an aircraft which is operated by the Government of that State.

3. Upon ratifying, accepting, approving or acceding to this Convention, each State Party shall notify the Secretary-General of the United Nations of the jurisdiction it has established under its domestic law in accordance with paragraph 2 of the present article. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 2 in cases where the alleged offender is present in its territory and where it does not extradite such a person to any of the States Parties that have established their jurisdiction in accordance with paragraphs 1 or 2.

5. When more than one State Party claims jurisdiction over the offences set forth in article 2, the relevant States Parties shall strive to coordinate their actions appropriately, in particular concerning the conditions for prosecution and the modalities for mutual legal assistance.

6. Without prejudice to the norms of general international law, this Convention does not exclude any criminal jurisdiction established by a State Party in accordance with its domestic law.

Article 7

States Parties shall take appropriate measures, in conformity with the relevant provisions of national and international law, including international human rights law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence referred to in article 2.

Article 8

1. States Parties shall cooperate in the prevention of the offences set forth in article 2 by taking all practicable measures, including, if necessary and where

appropriate, adapting their domestic legislation, to prevent and counter preparations in their respective territories for the commission, within or outside their territories, of those offences, including:

(a) Measures to prohibit the illegal activities of persons, groups and organizations that encourage, instigate, organize, knowingly finance or engage in the commission of offences set forth in article 2;

(b) In particular, measures to prohibit the establishment and operation of installations and training camps for the commission of offences set forth in article 2.

2. States Parties shall further cooperate in the prevention of the offences set forth in article 2, in accordance with their national law, by exchanging accurate and verified information and coordinating administrative and other measures taken as appropriate to prevent the commission of offences set forth in article 2, in particular by:

(a) Establishing and maintaining channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in article 2;

(b) Cooperating with one another in conducting inquiries, with respect to the offences set forth in article 2, concerning:

(i) The identity, whereabouts and activities of persons in respect of whom reasonable suspicion exists that they are involved in such offences;

(ii) The movement of funds, property, equipment or other instrumentalities relating to the commission of such offences.

3. States Parties may exchange information through the International Criminal Police Organization (Interpol) or other international and regional organizations.

Article 9

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence referred to in article 2. Such liability may be criminal, civil or administrative.

2. Such liability is incurred without prejudice to the criminal liability of individuals having committed the offences.

3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 10

1. Upon receiving information that a person who has committed or who is alleged to have committed an offence referred to in article 2 may be present in its territory,

the State Party concerned shall take such measures as may be necessary under its domestic law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its domestic law so as to ensure that person's presence for the purpose of prosecution or extradition.

3. Any person regarding whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in the territory of which that person habitually resides;

(b) Be visited by a representative of that State;

(c) Be informed of that person's rights under subparagraphs (a) and (b).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the laws and regulations of the State in the territory of which the offender or alleged offender is present, subject to the provision that the said laws and regulations must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

5. The provisions of paragraphs 3 and 4 shall be without prejudice to the right of any State Party having a claim to jurisdiction in accordance with article 6, paragraph 1, subparagraph (c), or paragraph 2, subparagraph (a), to invite the International Committee of the Red Cross to communicate with and visit the alleged offender.

6. When a State Party, pursuant to the present article, has taken a person into custody, it shall immediately notify, directly or through the Secretary-General of the United Nations, the States Parties which have established jurisdiction in accordance with article 6, paragraph 1 or 2, and if it considers it advisable, any other interested States Parties, of the fact that such person is in custody and of the circumstances which warrant that person's detention. The State which makes the investigation contemplated in paragraph 1 shall promptly inform the said States Parties of its findings and shall indicate whether it intends to exercise jurisdiction.

Article 11

1. The State Party in whose territory the alleged offender is present shall, in cases to which article 6 applies, if it does not extradite the person, be obliged, without exception whatsoever and whether or not the offence was committed in its territory, to submit the case, without undue delay, to its competent authorities for the purpose of prosecution through proceedings in accordance with the laws of that State. Those authorities shall take their decision in the same manner as in the case of any other offence of a grave nature under the law of that State.

2. Whenever a State Party is permitted under its domestic law to extradite or otherwise surrender one of its nationals only upon the condition that the person will be returned to that State to serve the sentence imposed as a result of the trial or proceeding for which the extradition or surrender of the person was sought, and that

State and the State seeking the extradition of the person agree with this option and other terms they may deem appropriate, such a conditional extradition or surrender shall be sufficient to discharge the obligation set forth in paragraph 1.

Article 12

Any person who is taken into custody or regarding whom any other measures are taken or proceedings are carried out pursuant to this Convention shall be guaranteed fair treatment, including enjoyment of all rights and guarantees in conformity with the law of the State in the territory of which that person is present and applicable provisions of international law, including international human rights law and, in particular, the Standard Minimum Rules for the Treatment of Prisoners.

Article 13

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 2, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

3. Each State Party may give consideration to establishing mechanisms to share with other States Parties information or evidence needed to establish criminal, civil or administrative liability pursuant to article 9.

Article 14

None of the offences referred to in article 2 shall be regarded, for the purposes of extradition or mutual legal assistance, as a political offence or as an offence connected with a political offence or as an offence inspired by political motives. Accordingly, a request for extradition or for mutual legal assistance based on such an offence may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Nothing in this Convention shall be interpreted as imposing an obligation to extradite or to afford mutual legal assistance, if the requested State Party has substantial grounds for believing that the request for extradition for offences set forth in article 2 or for mutual legal assistance with respect to such offences has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 16

1. A person who is being detained or is serving a sentence in the territory of one State Party whose presence in another State Party is requested for purposes of identification, testimony or otherwise providing assistance in obtaining evidence for the investigation or prosecution of offences under this Convention may be transferred if the following conditions are met:

(a) The person freely gives his or her informed consent; and

(b) The competent authorities of both States Parties agree, subject to such conditions as those States Parties may deem appropriate.

2. For the purposes of this article:

(a) The State to which the person is transferred shall have the authority and obligation to keep the person transferred in custody, unless otherwise requested or authorized by the State from which the person was transferred;

(b) The State to which the person is transferred shall without delay implement its obligation to return the person to the custody of the State from which the person was transferred as agreed beforehand, or as otherwise agreed, by the competent authorities of both States;

(c) The State to which the person is transferred shall not require the State from which the person was transferred to initiate extradition proceedings for the return of the person;

(d) The person transferred shall receive credit for service of the sentence being served in the State from which he or she was transferred for the time spent in the custody of the State to which he or she was transferred.

3. Unless the State Party from which a person is to be transferred in accordance with this article so agrees, that person, whatever his or her nationality, shall not be prosecuted or detained or subjected to any other restriction of his or her personal liberty in the territory of the State to which that person is transferred in respect of acts or convictions anterior to his or her departure from the territory of the State from which such person was transferred.

Article 17

1. The offences referred to in article 2 shall be deemed to be included as extraditable offences in any extradition treaty existing between any of the States Parties before the entry into force of this Convention. States Parties undertake to include such offences as extraditable offences in every extradition treaty to be subsequently concluded between them.

2. When a State Party which makes extradition conditional on the existence of a treaty receives a request from another State Party with which it has no extradition treaty, the requested State may, at its option, consider this Convention as a legal basis for extradition in respect of the offences set forth in article 2. Extradition shall be subject to the other conditions provided by the law of the requested State.

3. States Parties which do not make extradition conditional on the existence of a treaty shall recognize the offences referred to in article 2 as extraditable offences

between themselves, subject to the conditions provided for by the law of the requested State.

4. If necessary, the offences set forth in article 2 shall be treated, for the purposes of extradition between States Parties, as if they had been committed not only in the place in which they occurred but also in the territory of the States that have established jurisdiction in accordance with article 6, paragraphs 1 and 2.

5. The provisions of all extradition treaties and arrangements between States Parties with regard to offences set forth in article 2 shall be deemed to be modified as between States Parties to the extent that they are incompatible with this Convention.

Article 17 bis

The State Party where the alleged offender is prosecuted shall, in accordance with its domestic law or its applicable procedures, communicate the final outcome of the proceedings to the Secretary-General of the United Nations, who shall transmit the information to the other States Parties.

Article 18

...

Article 20

The States Parties shall carry out their obligations under this Convention in a manner consistent with the principles of sovereign equality and territorial integrity of States and that of non-intervention in the domestic affairs of other States.

Article 21

[*Deleted*]

Article 22

Nothing in this Convention entitles a State Party to undertake in the territory of another State Party the exercise of jurisdiction or performance of functions which are exclusively reserved for the authorities of that other State Party by the law in force in that State Party.

Article 23

1. Any dispute between two or more States Parties concerning the interpretation or application of this Convention which cannot be settled through negotiation within a reasonable time shall, at the request of one of them, be submitted to arbitration. If, within six months from the date of the request for arbitration, the parties are unable to agree on the organization of the arbitration, any one of those parties may refer the

dispute to the International Court of Justice, by application, in conformity with the Statute of the Court.

2. Each State may at the time of signature, ratification, acceptance or approval of this Convention or accession thereto declare that it does not consider itself bound by paragraph 1. The other States Parties shall not be bound by paragraph 1 with respect to any State Party which has made such a reservation.

3. Any State which has made a reservation in accordance with paragraph 2 may at any time withdraw that reservation by notification to the Secretary-General of the United Nations.

Article 24

1. This Convention shall be open for signature by all States from ... to ... at United Nations Headquarters in New York.

2. This Convention is subject to ratification, acceptance or approval. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations.

3. This Convention shall be open to accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 25

1. This Convention shall enter into force thirty days after twenty-two instruments of ratification, acceptance, approval or accession have been deposited with the Secretary-General of the United Nations.

2. For each State ratifying, accepting, approving or acceding to the Convention after the deposit of the twenty-second instrument of ratification, acceptance, approval or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification, acceptance, approval or accession.

Article 26

1. A State may denounce this Convention by written notification to the Secretary-General of the United Nations.

2. Denunciation shall take effect one year following the date on which such notification is received by the Secretary-General of the United Nations.

Article 27

The original of this Convention, of which the Arabic, Chinese, English, French, Russian and Spanish texts are equally authentic, shall be deposited with the Secretary-General of the United Nations, who shall send certified copies thereof to all States.

IN WITNESS WHEREOF, the undersigned, being duly authorized thereto by their respective Governments, have signed this Convention, opened for signature at United Nations Headquarters in New York on ... 2002.

Annex IV

Texts relating to article 18 of the draft comprehensive convention[1]

Text circulated by the Coordinator for discussion

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of armed forces during an armed conflict, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are governed by other rules of international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

Text proposed by the Member States of the Organization of the Islamic Conference

1. Nothing in this Convention shall affect other rights, obligations and responsibilities of States, peoples and individuals under international law, in particular the purposes and principles of the Charter of the United Nations, and international humanitarian law.

2. The activities of the parties during an armed conflict, including in situations of foreign occupation, as those terms are understood under international humanitarian law, which are governed by that law, are not governed by this Convention.

3. The activities undertaken by the military forces of a State in the exercise of their official duties, inasmuch as they are in conformity with international law, are not governed by this Convention.

4. Nothing in this article condones or makes lawful otherwise unlawful acts, nor precludes prosecution under other laws.

[1] These texts represent the stage of consideration reached at the current session of the Ad Hoc Committee. It is understood that further consideration will be given to these texts, together with all written and oral proposals, in future discussions, including on outstanding issues.

Annex V

A. List of written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft comprehensive convention on international terrorism[1]

Country submitter	*Symbol*	*Subject*
1. Guatemala	A/C.6/56/WG.1/CRP.1 and Corr.1	Revised version of document A/C.6/56/L.2; additional article (provisionally numbered 22A)
2. Hungary	A/C.6/56/WG.1/CRP.2	Article 2
3. Friends of the Chairman	A/C.6/56/WG.1/CRP.3	Revised texts of articles 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 17 bis, 20 and 22
4. Colombia	A/C.6/56/WG.1/CRP.4	New first preambular paragraph
5. -	A/C.6/56/WG.1/CRP.5 and Add.1-5	Draft report of the Working Group
6. Holy See	A/C.6/56/WG.1/CRP.6	Article 10, paragraph 4 bis
7. Holy See	A/C.6/56/WG.1/CRP.8	Article 12

B. Written amendments and proposals submitted by delegations to the Working Group of the Sixth Committee at the fifty-sixth session of the General Assembly in connection with the elaboration of a draft international convention for the suppression of acts of nuclear terrorism[1]

Country	*Symbol*	*Subject*
Mexico	A/C.6/56/WG.1/CRP.9	Article 4

Proposal submitted by Mexico (A/C.6/56/WG.1/CRP.9)

Article 4, new paragraph

This Convention does not address, nor can it be interpreted as addressing, in any way the issue of the legality of the use or threat of use of nuclear weapons by States.

[1] It is understood that further consideration will be given to these written amendments and proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

Annex VI

Report of the Coordinator on the results of the informal consultations

1. I wish to report to the Committee, in my capacity as Coordinator, on the informal consultations which I chaired, on 28, 29 and 30 January 2002, concerning article 18, the preamble and article 1 of the draft comprehensive convention on international terrorism, and concerning the draft international convention for the suppression of acts of nuclear terrorism.

A. Draft comprehensive convention on international terrorism

Article 18

2. In relation to this key article, which deals with the savings clause and exclusions from the scope of the convention, delegations had before them two texts of a draft article for consideration, one which I had prepared as Coordinator at the end of the October 2001 session of the Working Group of the Sixth Committee and another proposed by the Member States of the Organization of the Islamic Conference. The key issues on which discussion focused are reflected in paragraphs 2 and 3 of the drafts, namely: (a) in paragraph 2, whether to refer to the activities of "armed forces" or of "the Parties" during an armed conflict, and whether to insert the words "including in situations of foreign occupation" in that paragraph; and (b) in paragraph 3, whether to refer to excluding the activities undertaken by the military forces of a State in the exercise of their official duties by using the words "inasmuch as they are governed by other rules of international law" or the words "in conformity with international law".

3. Views were expressed by many delegations in support of the various formulations, but there was no consensus on what the texts should be. Accordingly, it will be necessary to continue consultations on those two paragraphs. I suggest that we use as the basis the two texts that we had before us during the informal consultations at the current session (see annex IV to the present report).

Preamble

4. We had a very comprehensive and constructive consideration of the draft preamble based on the text contained in document A/C.6/55/L.2. We advanced our work on the preamble, building on the discussions we had had in October 2001. In relation to the 10 draft paragraphs of the preamble contained in document A/C.6/55/L.2, proposals were made in relation to the first to fourth and sixth to eighth preambular paragraphs. In addition, new ninth and tenth preambular paragraphs were inserted and a proposal was made in relation to the new tenth preambular paragraph. There was also a proposal to add a preambular paragraph taken from the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation.

5. It was agreed to replace the word "conventions" with the word "treaties" in the first preambular paragraph, to correct the reference to General Assembly resolution 51/210 in the third preambular paragraph, and to insert the words "and manifestations" after the words "in all its forms" in the fourth preambular

paragraph. Switzerland also informed the Committee of a revised formulation for its proposal contained in document A/C.6/55/WG.1/CRP.27, to read "*Bearing in mind* the necessity of respecting human rights and international humanitarian law in the fight against terrorism".

Article 1

6. Discussion of the definitions contained in draft article 1 was based on the text contained in document A/C.6/55/L.2, annex I. Comments were made on the five paragraphs. Specific proposals were made in relation to paragraphs 1 (relating to "State or government facility") and 4 (relating to "Place of public use"). No proposals were made in relation to paragraphs 2, 3 and 5. Some delegations noted that their position in relation to the amendments which had been proposed and their position in relation to the proposal contained in document A/C.6/55/WG.1/CRP.30, which remains on the table, would depend on the outcome of the text agreed upon for article 18.

7. The proposals which were presented in relation to the preamble and article 1 during the informal consultations are listed in the appendix to my report, for reference in relation to future discussion of those parts of the Convention; the text of the draft preamble and article 1 are contained in annex I to the present report of the Ad Hoc Committee.

B. Draft international convention for the suppression of acts of nuclear terrorism

8. Informal consultations were also held on the draft international convention for the suppression of acts of nuclear terrorism. The Director of the New York office of IAEA briefed delegations on the measures under consideration by the Agency aimed at combating acts of terrorism involving nuclear materials and other radioactive materials. His remarks were drawn from the report of the IAEA Director General to the IAEA Board of Governors on protection against nuclear terrorism.[1]

9. The reference document for the informal consultations on the draft convention was the revised text proposed by the Friends of the Chairman in October 1998,[2] which was based on a Russian draft text. The Coordinator noted that at the October 2001 meeting of the Working Group of the Sixth Committee, there had been a comprehensive exchange of views on the principal outstanding issues relating to the scope of application of the convention, and that the positions of delegations on those issues were well known. However, since there had been insufficient time in October to consider fully the proposal that had been put forward by Mexico relating to the scope article, to the effect that "This convention does not address, nor can it be interpreted as addressing, in any way, the issue of the legality of the use or threat of use of nuclear weapons by States", the Coordinator proposed that the consultations should focus on that proposal.

10. Some delegations, while reiterating their support for the current text of article 4 in the draft convention, stated that they supported the proposal and thought that it could represent a possible compromise in addressing concerns about "the armed forces of States" exclusion issue in relation to the article. Other delegations stated that they could not support the proposal and did not regard it as a compromise solution to the issues raised by the current provisions of article 4.

11. Some delegations reiterated their support for the conclusion of a convention for the suppression of acts of nuclear terrorism. Others suggested that it might be useful to reflect upon alternative approaches. Lebanon reiterated its proposal in relation to the dumping of radioactive waste material.[3]

C. Conclusion

12. I wish to thank all delegations for their cooperation and application in engaging so readily in discussion of the issues addressed in informal consultations. Our understanding of the position of delegations on particular points has been enhanced and the issues for which we need to find broadly acceptable solutions have been more sharply clarified.

13. The key issue in relation to the comprehensive convention is clearly to resolve the text of article 18. That has to be our priority. If we can do that, I believe, as many delegations have indicated, that the other outstanding matters will also be capable of resolution and we will be able to conclude the Convention on which so much progress has been made over the past four months.

Notes

[1] See S/2001/1164.

[2] See A/C.6/53/L.4.

[3] A/C.6/53/WG.1/CRP.33.

Appendix

List of proposals made during informal consultations on the preamble and article 1 of the draft comprehensive convention on international terrorism[1]

For reference only

Preamble

New preambular paragraph

- Insert the following text taken from document A/C.6/55/WG.1/CRP.37:

"*Guided* by the purposes and principles of the Charter of the United Nations"

- Insert the following text taken from document A/C.6/56/WG.1/CRP.4:

"*Having in mind* the purposes and principles of the Charter of the United Nations concerning the maintenance of international peace and security and the promotion of good-neighbourliness and friendly relations and cooperation among States"

New preambular paragraph

- Insert the following text taken from document A/C.6/55/WG.1/CRP.37:

"*Recalling* all relevant General Assembly resolutions, including resolution 46/51 of 9 December 1991"

New preambular paragraph

- Add the following text taken from document A/C.6/55/WG.1/CRP.37:

"*Recalling* also the Declaration on the Occasion of the Fiftieth Anniversary of the United Nations contained in General Assembly resolution 50/6 of 24 October 1995"

Sixth preambular paragraph

- Replace the words "aim at the undermining of human rights" with the words "undermine the protection of human rights" or "undermine the enjoyment of human rights".

Seventh preambular paragraph

- Delete the word "inciting" or replace it with the word "encouraging".
- Replace the words "those who have participated in such terrorist acts" with the words "those who have participated in terrorist acts".

[1] For the text of the draft preamble and article 1, see annex I to the present report of the Ad Hoc Committee. It is understood that further consideration will be given to these proposals, together with all other written and oral proposals, in future discussions, including on outstanding issues.

Eighth preambular paragraph

- Replace the words "including those which are committed or supported by States, directly or indirectly" with the words "including those in which States are directly or indirectly involved".
- Replace the words "committed or supported by States" with the words "supported by States".
- Delete the words "including those which are committed or supported by States, directly or indirectly".
- Delete the entire preambular paragraph.

Tenth preambular paragraph

- Insert the word "law" after the words "human rights".

New preambular paragraph

- Add the following new preambular paragraph taken from the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation:

  "*Recalling* General Assembly resolution 40/61 of 9 December 1985, which, inter alia, 'urges all States, unilaterally and in cooperation with other States, as well as relevant United Nations organs, to contribute to the progressive elimination of causes underlying international terrorism and to pay special attention to all situations, including colonialism, racism and situations involving mass and flagrant violations of human rights and fundamental freedoms and those involving alien occupation, that may give rise to international terrorism and may endanger international peace and security'"

Article 1

Paragraph 4

- Add a reference to the environment and the endangering of natural resources.

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